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REMARKS

Claims 1-3, 5, 7, 8, 18-20, 30, 36-59, and 63-70 are pending, with claims 1, 19, 63, and

68 being independent. Claims 4, 6, 9-17, 21-29, 31-35, and 60-62 have been cancelled, and

claims 63-70 have been added. Support for amendments and new claims may be found in the

application at, for example, page 13, lines 3-9; and FIGS. 3 and 5 and the accompanying text.

No new matter has been introduced.

Claim Rejections – 35 U.S.C. § 112

Claims 2, 8, and 20 have been rejected under 35 U.S.C. § 112, second paragraph, as being

indefinite. Claim 2 has been amended to recite "the first rule set." Claims 8 and 20 have been

amended to recite "the first rule set prior to processing the first track of electronic media."

Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection of

claims 2, 8 and 20.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 5, 7, 8, 18-20, 30-33, 36-41, 43, 45, 46, 48-53, 55, 57, 58, and 60-62

Claims 1-3, 5, 7, 8, 18-20, 30-33, 36-41, 43, 45, 46, 48-53, 55, 57, 58, and 60-62 have

been rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro (U.S. Patent No.

6,119,163) in view of Coker (U.S. Patent App. Pub. No. 2003/0074418). Applicants respectfully

request reconsideration and withdrawal of this rejection because neither Monteiro, Coker, nor

any proper combination of the two describes or suggests a second rule set including an event

definition describing the network failure to be monitored during access to electronic media, the

network failure being the same among the first rule set and the second rule set, and a second rule

set event transition that enables a new media state to be realized upon detection of the network

failure, the second rule set event transition being different than the first rule set event transition;

detecting, by the client, a second occurrence of the network failure; and performing, by the client

and in response to the detection of the second occurrence of the network failure, the second rule

set event transition, as recited by amended independent claim 1.

Rather, Monteiro discloses a scalable architecture for delivery of real-time information

over a communications network. *See* Monteiro at Abstract. In response to packet loss and

network congestion, the architecture may use different media servers and/or lower the data rate

to deliver information to a user. *See* Montiero at col. 7, lines 21-30. For example, a lower bit

rate may be requested until packet loss and network congestion is improved. *See* Montiero at

col. 7, lines 21-30.

Therefore, Monteiro discloses using different media servers and/or lowering the data rate

in response to packet loss and network congestion. However, Monteiro does not describe or

suggest a second rule set event transition that enables a new media state to be realized upon

detection of the network failure, the second rule set event transition being different than the first

rule set event transition, as recited in amended independent claim 1.

Coker does not cure the failure of Monteiro to describe or suggest all of the features of

amended independent claim 1. Rather, Coker discloses determining whether a current

connection between a servicing agent and a main SQL database is present. *See* Coker at ¶

[0193]. If the connection is not present, a request is serviced based on data present in a local

SQL database accessible by the servicing agent. *See* Coker at ¶ [0193]. If the connection is present, the request is serviced based on data present in the main SQL database. *See* Coker at ¶ [0193].

Therefore, Coker discloses accessing a local SQL database if a connection is not present between the servicing agent and the main database. However, like Monteiro, Coker does not describe or suggest a second rule set event transition that enables a new media state to be realized upon detection of the network failure, <u>the second rule set event transition being different than the first rule set event transition</u>, as recited in amended independent claim 1.

Accordingly, for at least these reasons, applicants respectfully request reconsideration and withdrawal of the rejection of amended independent claim 1 and its dependent claims.

Amended independent claim 19 recites features similar to those discussed above in connection with amended independent claim 1 and does so in the context of a tangible computer-readable medium. Accordingly, at least for reasons similar to those discussed above in connection with amended independent claim 1, applicants respectfully request reconsideration and withdrawal of the rejection of amended independent claim 19 and its dependent claims.

Claims 42, 44, 47, 54, 56 and 59

Claims 42, 44, 47, 54, 56 and 59 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro in view of Coker, and further in view of Marks (U.S. Patent App. Pub. No. 2001/0053944). Marks, which is cited as allegedly showing prioritized media, an emergency broadcast, and a particular class of content (*see* Office Action mailed May 8, 2008 at pages 12-13), does not cure the failure of Monteiro and Coker to describe or suggest the subject

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matter of amended independent claims 1 and 19 from which claims 42, 44, 47, 54, 56 and 59 respectively depend. Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection of claims 42, 44, 47, 54, 56 and 59.

New Claims

Claims 63-67

New independent claim 63 recites, in part, a rule set including an event definition describing a <u>licensing restriction</u> to be monitored during access to electronic media, and an event transition that enables <u>a second track of electronic media that complies with the licensing restriction to be accessed upon detection of the licensing restriction</u>; detecting, by the client, <u>an occurrence of the licensing restriction</u>; and accessing, by the client and in response to detection of the occurrence of the licensing restriction, <u>the second track of electronic media that complies with the licensing restriction.</u>

None of Monteiro, Coker, or any proper combination of the two describes or suggests a licensing restriction and, as such, the noted features of new independent claim 63. Nevertheless, the Office Action contends, in connection with the rejection of dependent claim 43, that both Monteiro and Coker disclose a licensing restriction. *See* Office Action mailed May 8, 2008 at pages 10-11. The applicants respectfully disagree.

Monteiro discloses audit logs that record the number of listeners for each musical or video selection for the purpose of assessing copyright royalties. *See* Monteiro at col. 3, lines 51-56. However, recording the number of listeners of a selection does not correspond to an event transition that enables <u>a second track of electronic media that complies with the licensing</u>

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restriction to be accessed upon detection of the licensing restriction, as recited in new

independent claim 43.

Coker discloses a process of servicing requests in a web application and a process of

operating a web application for databases. *See* Coker ¶¶ [0194] and [0196]. However, Coker,

like Monteiro, also does not describe or suggest an event transition that enables a second track of

electronic media that complies with the licensing restriction to be accessed upon detection of the

licensing restriction, as recited in new independent claim 43.

Accordingly, for at least these reasons, applicants respectfully submit that new

independent claim 63 and its dependent claims 64-67 are allowable.

Claim 68

New independent claim 68 recites, in part, a second rule set including an event definition

describing the event condition to be monitored during access to electronic media, the event

condition being the same among the first rule set and the second rule set, and a second rule set

event transition that enables a second, new media state to be realized upon detection of the event

condition, the second rule set event transition being different than the first rule set event

transition; detecting, by the client, a second occurrence of the event condition; and performing,

by the client and in response to detection of the second occurrence of the event condition, the

second rule set event transition.

At least for reasons similar to those discussed in connection with amended independent

claim 1, applicants respectfully submit that new independent claim 68 is allowable.

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Claims 69-70

New claims 69 and 70 depend from amended independent claim 1. At least for the reason of that dependency and reasons similar to those noted above with respect to amended independent claim 1, applicants respectfully submit that new claim 69 is allowable. Because claims 69 and 70 recite additional features, however, the individual consideration of claims 69 and 70 on their own merits is respectfully requested.

<div align="center">Conclusion</div>

Applicants respectfully submit that all claims are in condition for allowance.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.
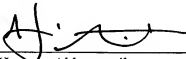
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The fee in the amount of $310 in payment for the Excess Claims fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: **8/8/2.8**

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